

FORTY-EIGHTH DAY

(Tuesday, April 2, 1963)

The Senate met at 10:27 o'clock a.m., pursuant to adjournment, and was called to order by the President.

The roll was called, and the following Senators were present:

Aikin	Krueger
Bates	Moffett
Blanchard	Moore
Calhoun	Owen
Cole	Parkhouse
Colson	Patman
Creighton	Ratliff
Crump	Reagan
Dies	Richter
Hall	Rogers
Hardeman	Schwartz
Harrington	Spears
Hazlewood	Strong
Herring	Watson
Kazen	Word
Kennard	

A quorum was announced present.

Senator A. M. Aikin offered the invocation.

On motion of Senator Aikin, and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

Senate Concurrent Resolution 45

Senator Herring offered the following resolution:

S. C. R. No. 45, Providing designation of Gethsemane Lutheran Church as State Historical Landmark:

Whereas, The members of Gethsemane Lutheran Church realize the historical significance of its former church building at Congress Avenue and Sixteenth Street, Austin, Texas; and

Whereas, This building was erected in 1883 of brick and stone salvaged from the ruins of the old State Capitol; and

Whereas, This building is an interesting architectural structure that merited a study by the Department of Architecture of the University of Texas in cooperation with a national project of the American Historic and Building Survey Committee of the Department of the Interior; and

Whereas, The plans and drawings

of this building were accepted by the Library of Congress and a Heritage Medallion has been placed on the building by the Texas State Historical Survey Committee; and

Whereas, This Texas Landmark is sacred to thousands of Texas citizens and is an outstanding attraction to tourists visiting the Capitol City; and

Whereas, The members of the now relocated Gethsemane Lutheran Church have agreed to present this building to the State of Texas, if the State designates it as a Historical Landmark; now therefore be it

Resolved, That the State of Texas accept the building and the furnishings, including fourteen stained art glass windows and the tower bell, and agree to designate, and do designate, by this resolution, this building as a State Historical Landmark, and agree to preserve this building as a Historical Landmark.

The resolution was read.

On motion of Senator Herring and by unanimous consent the resolution was considered immediately and was adopted.

Message from the House

Hall of the House of Representatives
Austin, Texas,
April 2, 1963.

Hon Preston Smith, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following:

H. C. R. No. 37, Authorizing the Governor of the State of Texas to execute a lease to the City of Austin of certain land for public recreational purposes.

Respectfully submitted,

DOROTHY HALLMAN,
Chief Clerk House of Representatives

Presentation of Guest

Senator Harrington by unanimous consent presented as a guest of the Senate today Mr. R. C. Atkins of Beaumont to the Members of the Senate.

Senate Bill 132 on Third Reading

On motion of Senator Creighton and by unanimous consent, the reg-

ular order of business was suspended to take up for consideration at this time on its third reading and final passage:

S. B. No. 132, A bill to be entitled "An Act relating to registration of voters; amending the Election Code of the State of Texas, etc., and declaring an emergency."

The bill was read the third time and was passed.

Record of Votes

Senators Kazen, Schwartz, Spears, Patman, Kennard and Harrington asked to be recorded as voting "Nay" on the final passage of S. B. No. 132.

Message from the House

Hall of the House of Representatives
Austin, Texas,
April 2, 1963.

Hon. Preston Smith, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following:

The House has concurred in Senate amendments to House Bill No. 308 by non-record vote.

Respectfully submitted,

DOROTHY HALLMAN,
Chief Clerk House of Representatives

Senate Bill 270 on Second Reading

Senator Hardeman moved to suspend the regular order of business and take up S. B. No. 270 for consideration at this time.

The motion prevailed by the following vote:

Yeas—25

Aikin	Herring
Bates	Kazen
Blanchard	Kennard
Calhoun	Owen
Cole	Parkhouse
Colson	Ratliff
Creighton	Reagan
Crump	Rogers
Dies	Schwartz
Hall	Strong
Hardeman	Watson
Harrington	Word
Hazlewood	

Nays—4

Krueger	Richter
Patman	Spears

Absent

Moffett

Moore

The President laid before the Senate on its second reading and passage to engrossment:

S. B. No. 270, A bill to be entitled "An Act to establish and adopt a Code of Criminal Procedure for the State of Texas by revising and rearranging the statutes of this State which pertain to the trial of criminal cases; and by making various changes in, omissions from, and additions to such statutes; defining the meaning of certain words and terms used in the Code; and fixing the effective date of the Code; validating certain proceedings had under existing and prior statutes; repealing statutes and all laws or parts of laws in conflict with the Code; containing a severability clause; and declaring an emergency."

The bill was read second time.

Senator Hardeman offered the following committee amendment to the bill:

Amend Senate Bill 270 by adding at the end of Article 40.06 the following:

"provided, however, that the provisions of this Article are directory only and not mandatory, and a failure to comply therewith in any provision shall not cause, bring about or operate to effect an affirmation of the conviction."

The committee amendment was adopted.

Senator Hardeman offered the following amendment to the bill:

Amend S. B. No. 270, Art. 42.12, Sec. 3a, page 227, by changing the period at the end of the third sentence after the word "State" to a comma, and adding the following: "and that his general reputation is good."

The amendment was adopted.

Senator Hardeman offered the following amendment to the bill:

Amend S. B. 270, page 95, Article 19.18, by changing the word "men" at the end thereof to the word "persons."

The amendment was adopted.

Senator Hardeman offered the following amendment to the bill:

Amend S. B. 270, Art. 19.20, page 96, by changing the word "men" in the subject thereof to the word "persons."

The amendment was adopted.

Senator Hardeman offered the following amendment to the bill:

Amend S. B. No. 270, Article 22.11, page 116, by changing the last word therein from "action" to "actions."

The amendment was adopted.

Senator Hardeman offered the following amendment to the bill:

Amend S. B. No. 270, Articles 31.03 and 31.04, page 154, by changing the word "application" wherever the same may appear, to the word "motion."

The amendment was adopted.

Senator Hardeman offered the following amendment to the bill:

Amend S. B. No. 270, Article 39.05, page 201, by changing the figures "738" to "740."

The amendment was adopted.

Senator Hardeman offered the following amendment to the bill:

Amend S. B. No. 270, Article 43.18, page 254, by inserting on line 6 of said Article, between the words "the" and "Department," the following words: "Board of Directors of the."

The amendment was adopted.

Senator Hardeman offered the following amendment to the bill:

Amend S. B. No. 270, Article 52.48, page 368, by striking the word "general manager of the Texas Prison System" and inserting in lieu thereof the following: "Director of the Department of Corrections."

The amendment was adopted.

Senator Hardeman offered the following amendment to the bill:

Amend S. B. No. 270, Article 52.21, page 345, by striking out the words and figures in the second sentence thereof reading as follows: "Article 1019, Code of Criminal Procedure, as

amended by Chapter 205, General Laws, Regular Session, 42nd Legislature" and inserting in lieu the following: "Article 52.12."

The amendment was adopted.

Senator Hardeman offered the following amendment to the bill:

Amend S. B. No. 270, Article 44.04, sub-section (e), page 260, by changing the word "and" between "perfect" and "appeal" in line 5 of said sub-section (e), to the word "an."

The amendment was adopted.

Senator Hardeman offered the following amendment to the bill:

Amend S. B. No. 270, page 257, Article 42.23 by changing the figures "42.23" to "43.23."

The amendment was adopted.

Senator Hardeman offered the following amendment to the bill:

Amend S. B. No. 270, Article 39.01, page 198, by deleting the figures "750."

The amendment was adopted.

Senator Calhoun offered the following amendment to the bill:

Amend S. B. No. 270, Sec. 36c, page 246A by striking the words "before a jury" and adding in lieu thereof the following: "without a jury."

The amendment was read.

On motion of Senator Hardeman the amendment was tabled.

Senator Moore offered the following amendment to the bill:

Amend S. B. No. 270 by adding a new sub-section 3 to Chapter 36, Article 36.01 and making the present language of the bill which follows become Sec. B, Sec. A to read as follows:

"Sec. A. After the effective date of this Act any changes adopting the jury wheel as a method of selection of jurors shall be made only by an order of the commissioners court of the county making such change."

The amendment was read.

On motion of Senator Hardeman, the amendment was tabled.

Question—Shall S. B. No. 270 be passed to engrossment.

Motion to Adjourn

Senator Dies moved that the Senate stand adjourned until 10:00 o'clock a.m. tomorrow.

The motion was lost.

Senate Bill 270 on Second Reading

The Senate resumed the consideration of the pending business, same being S. B. No. 270 on its second reading and passage to engrossment.

Question—Shall S. B. No. 270 be passed to engrossment?

On motion of Senator Hardeman and by unanimous consent the caption was amended to conform to the body of the bill as amended.

Question—Shall S. B. No. 270 be passed to engrossment?

Bill Signed

The President signed in the presence of the Senate after the caption had been read, the following enrolled bills.

H. B. No. 496, A bill to be entitled "An Act changing the name and function of the 'Legion Branch of the San Antonio State Tuberculosis Hospital' and declaring an emergency."

House Bill and Resolution on First Reading

The following bill and resolution received from the House, were read the first time and referred to the committees indicated:

H. C. R. No. 37, To the Committee on Counties, Cities and Towns.

H. B. No. 67, To the Committee on Labor and Management Relations.

Recess

Senator Herring moved that the Senate take recess until 2:00 o'clock p.m. today.

Senator Dies moved that the Senate stand adjourned until 10:00 o'clock a.m. tomorrow.

Question first on the motion to adjourn until 10:00 o'clock a.m. tomorrow, the motion was lost.

Question next on the motion to take recess until 2:00 o'clock p.m. today, the motion prevailed.

Accordingly, the Senate at 11:59 o'clock a.m. took recess until 2:00 o'clock p.m. today.

After Recess

The President called the Senate to order at 2:00 o'clock p.m.

Message from the House

Hall of the House of Representatives
Austin, Texas,
April 2, 1963.

Hon. Preston Smith, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following:

H. B. No. 143, A bill to be entitled "An Act amending Article 1659 of the Revised Civil Statutes of Texas, 1925, so as to raise to Five Hundred Dollars (\$500) the amount of emergency purchases a county may make without advertising for competitive bidding; and declaring an emergency."

H. B. No. 206, A bill to be entitled "An Act amending Section 14 of Chapter 120, Acts Regular Session 44th Legislature, page 318, as amended, Acts 1947, 50th Legislature, page 1059, Chapter 453, Section 2, codified as Section 14 of Article 6008, Vernon's Annotated Civil Statutes, and declaring an emergency."

H. B. No. 376, A bill to be entitled "An Act authorizing the Chairman of the Board of Regents of the State Teachers Colleges to exchange a certain tract of state-owned land for another tract of publicly-owned land of similar size; and declaring an emergency."

H. B. No. 68, A bill to be entitled "An Act amending Article 198 of the Revised Civil Statutes of Texas, 1925, as last amended by Chapter 641, Acts of the 47th Legislature, Regular Session, 1941, and Article 1817 of the Revised Civil Statutes of Texas, 1925, as last amended by Chapter 421, Acts of the 55th Legislature, Regular Session, 1957, so as to create the Twelfth Supreme Judicial District, comprised of the counties of Smith,

Van Zandt, Henderson, Anderson, Houston, Freestone, Cherokee, Rusk, Nacogdoches, Shelby, Panola, Angelina, Rains, San Augustine, Sabine, Wood, Upshur, Kaufman, Navarro, Leon and Trinity, and to locate the court of civil appeals thereof in the City of Tyler; providing for jurisdiction of cases; and declaring an emergency."

H. B. No. 523, A bill to be entitled "An Act authorizing the Board of Regents of the State Teachers Colleges to accept gifts and donations in order to establish a research center to be known as the Killgore Research Center on the campus of West Texas State College; making provisions for the disbursement of the moneys received and for the maintenance and administration of the research center; granting the administration of the college authorities to conduct a permanent research program, in conjunction with the donors; providing for severability; and declaring an emergency."

H. B. No. 567, A bill to be entitled "An Act amending Sections 1, 3, 4, 6, and 21 of Chapter 236, House Bill No. 99, Acts of the Regular Session of the Fifty-fifth Legislature as amended by Chapter 5, House Bill No. 943, Acts of the Regular Session of the Forty-sixth Legislature (codified as Article 118b, Sections 1, 3, 4, 6 and 21, Vernon's Annotated Civil Statutes of Texas, and Article 1700a-3, Vernon's Annotated Penal Code of Texas); amending Section 11 and repealing Section 27 of Chapter 236, House Bill No. 99, Acts of the Regular Session of the Forty-fifth Legislature (codified as Article 118b, Sections 11 and 27, Vernon's Annotated Civil Statutes of Texas); amending Section 25 of Chapter 236, House Bill No. 99, Acts of the Regular Session of the Forty-fifth Legislature as amended by Chapter 32, House Bill No. 78, Acts of the Second Called Session of the Forty-fifth Legislature (codified as Article 118b, Section 25, Vernon's Annotated Civil Statutes of Texas); amending Section 3 of Chapter 16, Senate Bill No. 24, Acts of the First Called Session of the Forty-fifth Legislature (codified as Article 1287-2 of Vernon's Annotated Civil Statutes of Texas); relating to the bonding and licensing of dealers in citrus fruit in the State of Texas; providing for a bond based on the number of stand-

ard packed boxes of citrus handled; prescribing penalties for the violation of this act; providing for the giving of a single surety bond of twenty-five thousand (\$25,000) Dollars contingent upon faithful performance of all provisions of House Bill No. 99 and House Bill No. 557, Acts of the Regular Session of the Forty-fifth Legislature, and the licensing of any person under both acts on the payment of a single license fee; repealing the provisions requiring license fee only for those entering or doing business in the Texas Citrus Zone as defined in Section 1 of House Bill No. 553, Chapter 350, 42nd Legislature, Regular Session; providing a saving clause; and declaring an emergency."

Respectfully submitted,

DOROTHY HALLMAN,
Chief Clerk House of Representatives

Senate Bill 270 on Second Reading

The Senate resumed the consideration of the pending business, same being S. B. No. 270 on its second reading and passage to engrossment. (The bill having been read the second time this morning.)

Question—Shall S. B. No. 270 be passed to engrossment.

Senator Dies offered the following amendment to the bill:

Amend S. B. No. 270 by adding to Article 36.20 (667) the following: "the transcription of any evidence, testimony, or argument of state's counsel, with the objection made to such evidence, testimony, or argument, shall constitute an acceptable bill of exceptions under this code of criminal procedure."

The amendment was read and was adopted.

On motion of Senator Hardeman and by unanimous consent the caption was amended to conform to the body of the bill as amended.

The bill as amended passed to engrossment.

Senate Bill 270 on Third Reading

Senator Hardeman moved that the Constitutional Rule and Rule 32 requiring bills to be read on three several days be suspended and that

S. B. No. 270 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—25

Aikin	Kennard
Bates	Krueger
Blanchard	Moore
Calhoun	Owen
Cole	Parkhouse
Creighton	Ratliff
Crump	Reagan
Dies	Rogers
Hall	Schwartz
Hardeman	Strong
Harrington	Watson
Hazlewood	Word
Kazen	

Nays—4

Colson	Patman
Moffett	Richter

Absent

Herring	Spears
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The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

Record of Votes

Senators Moore, Krueger, Patman, Creighton, Richter, Hall, Blanchard and Word asked to be recorded as voting "Nay" on the final passage of S. B. No. 270.

Motion to Place Senate Bill 129 on Second Reading

Senator Calhoun asked unanimous consent to suspend the regular order of business and take up S. B. No. 129 for consideration at this time.

There was objection.

Senator Calhoun then moved to suspend the regular order of business and take up S. B. No. 129 for consideration at this time.

The motion was lost by the following vote (not receiving two-thirds vote of the Members present):

Yeas—20

Aikin	Calhoun
Bates	Colson
Blanchard	Creighton

Hall	Krueger
Hardeman	Moffett
Harrington	Ratliff
Hazlewood	Reagan
Herring	Richter
Kazen	Rogers
Kennard	Word

Nays—11

Cole	Patman
Crump	Schwartz
Dies	Spears
Moore	Strong
Owen	Watson
Parkhouse	

Motion to Place Senate Bill 255 on Second Reading

Senator Crump asked unanimous consent to suspend the regular order of business and take up S. B. No. 255 for consideration at this time.

There was objection.

Senator Crump then moved to suspend the regular order of business and take up S. B. No. 255 for consideration at this time.

The motion was lost by the following vote (not receiving two-thirds vote of the Members present):

Yeas—17

Aikin	Moffett
Bates	Moore
Blanchard	Owen
Calhoun	Parkhouse
Colson	Ratliff
Crump	Reagan
Hardeman	Schwartz
Hazlewood	Watson
Kennard	

Nays—14

Cole	Krueger
Creighton	Patman
Dies	Richter
Hall	Rogers
Harrington	Spears
Herring	Strong
Kazen	Word

Presentation of Guests

Senator Spears by unanimous consent presented as a guest of the Senate today former Senator Ozzie Latimer of San Antonio to the Members of the Senate.

On motion of Senator Aikin and by unanimous consent former Sen-

ator Latimer was granted the privileges of the floor for today.

**Motion to Place Senate Bill 129
on Second Reading**

Senator Calhoun moved to suspend the regular order of business and take up S. B. No. 129 for consideration at this time.

The motion was lost by the following vote (not receiving two-thirds vote of the Members present).

Yeas—19

Aikin	Hazlewood
Bates	Kazen
Blanchard	Krueger
Calhoun	Moffett
Cole	Ratliff
Colson	Reagan
Creighton	Richter
Hall	Rogers
Hardeman	Word
Harrington	

Nays—12

Crump	Parkhouse
Dies	Patman
Herring	Schwartz
Kennard	Spears
Moore	Strong
Owen	Watson

Motion to Adjourn

Senator Moore moved that the Senate stand adjourned until 10:30 o'clock a.m. tomorrow.

Question on the motion to adjourn, Yeas and Nays were demanded.

The motion was lost by the following vote:

Yeas—14

Blanchard	Herring
Calhoun	Krueger
Colson	Moffett
Creighton	Moore
Crump	Owen
Dies	Spears
Hardeman	Watson

Nays—17

Aikin	Kennard
Bates	Parkhouse
Cole	Patman
Hall	Ratliff
Harrington	Reagan
Hazlewood	Richter
Kazen	Rogers

Schwartz
Strong Word

Reports of Standing Committees

Senator Crump by unanimous consent submitted the following reports:

Austin, Texas,
April 2, 1963.

Hon. Preston Smith, President of the Senate.

Sir: We, your Committee on Education, to whom was referred S. B. No. 92, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

CRUMP, Chairman.

Austin, Texas,
March 28, 1963.

Hon. Preston Smith, President of the Senate.

Sir: We, your Committee on Education, to whom was referred S. B. No. 368, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

CRUMP, Chairman.

Austin, Texas,
March 28, 1963.

Hon. Preston Smith, President of the Senate.

Sir: We, your Committee on Education, to whom was referred H. B. No. 292, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

CRUMP, Chairman.

Senate Bill 122 on Second Reading

Senator Cole moved to suspend the regular order of business and take up S. B. No. 122 for consideration at this time.

The motion prevailed by the following vote:

Yeas—22

Aikin	Hardeman
Bates	Harrington
Blanchard	Hazlewood
Cole	Kazen
Dies	Kennard
Hall	Krueger

Parkhouse	Rogers
Patman	Schwartz
Ratliff	Spears
Reagan	Strong
Richter	Watson

Nays—9

Calhoun	Moffett
Colson	Moore
Creighton	Owen
Crump	Word
Herring	

The President laid before the Senate on its second reading and passage to engrossment:

S. B. No. 122, A bill to be entitled "An Act amending Chapter 370, Acts of the 57th Legislature, Regular Session, 1961 (compiled as Article 2615g, Vernon's Texas Civil Statutes), amending Sections 7a, 10 and 11 thereof and adding a Section 10a conferring on the Board of Regents of the University of Houston the power of eminent domain; providing for severability; and declaring an emergency."

The bill was read second time.

Senator Cole offered the following amendment to the bill:

Amend section 7a of section 1 of S. B. No. 122 by adding a comma after "1961" in the phrase "as amended in 1961" and by adding the following language: "or as subsequently amended,".

The amendment was adopted.

Senator Moore offered the following amendment to the bill.

Amend Senate Bill 122 by deleting Section 10a, page 2, lines 9 through 17 of the printed bill.

The amendment was read.

Question—Shall the amendment by Senator Moore to S. B. No. 122 be adopted?

Leave of Absence

Senator Owen was granted leave of absence for the remainder of the day today on account of important business on motion of Senator Hardeman.

Welcome Resolutions

S. R. No. 341—By Senator Crump:

Extending welcome to students and teachers of Mason High School.

S. R. No. 342—By Senator Krueger: Extending welcome to students and teachers of Round Top-Carmine High School.

S. R. No. 343—By Senator Krueger for Senator Herring: Extending welcome to students and teachers of Zilker School of Austin.

S. R. No. 344—By Senator Herring: Extending welcome to students and teacher of Oak Hill School of Travis County.

S. R. No. 345—By Senator Spears: Extending welcome to students and teacher of Edgewood High School of San Antonio.

S. R. No. 346—By Senator Dies: Extending welcome to Judge R. N. Stripling and Judge J. S. Gardner.

Adjournment

Senator Blanchard moved that the Senate stand adjourned until 11:00 o'clock a.m. tomorrow.

Question on the motion to adjourn, Yeas and Nays were demanded.

The motion to adjourn prevailed by the following vote:

Yeas—16

Blanchard	Herring
Calhoun	Kennard
Colson	Krueger
Creighton	Moffett
Crump	Moore
Dies	Spears
Hall	Strong
Hazlewood	Word

Nays—14

Aikin	Patman
Bates	Ratliff
Cole	Reagan
Hardeman	Richter
Harrington	Rogers
Kazen	Schwartz
Parkhouse	Watson

Absent—Excused

Owen

Accordingly the Senate at 3:28 o'clock p.m. adjourned until 11:00 o'clock a.m. tomorrow.